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TO RUEHC/SECSTATE WASHDC 6076
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RUCPDOG/USDOC WASHDC 2629
RUEHMN/AMEMBASSY MONTEVIDEO 2214
RUEHBU/AMEMBASSY BUENOS AIRES 2538
RUEHSG/AMEMBASSY SANTIAGO 1919
RUEHLP/AMEMBASSY LA PAZ 3123
RUEHPE/AMEMBASSY LIMA 1074
RUEHCV/AMEMBASSY CARACAS 0414
RUEHBO/AMEMBASSY BOGOTA 1458
RUEHRG/AMCONSUL RECIFE 3238
RUEHRI/AMCONSUL RIO DE JANEIRO 7608
RUEHAC/AMEMBASSY ASUNCION 2849
RUEATRS/DEPT OF TREASURY WASHDC
RUEHC/DEPT OF LABOR WASHDC
RUEAWJC/DEPT OF JUSTICE WASHDC

UNCLAS SECTION 01 OF 04 SAO PAULO 001206

SIPDIS

SENSITIVE
SIPDIS

DEPT FOR WHA/BSC AND EB/TPP/IPE
STATE PASS TO USTR FOR SCRININ
STATE PASS EXIMBANK
STATE PASS OPIC FOR MORONESE, RIVERA, MERVENNE
NSC FOR FEARS
USDOC FOR 4332/ITA/MAC/OLAC
USDOC FOR 3134/USFCS/OIO
USDOC ALSO PASS PTO/OLIA
TREASURY FOR OASIA, DAS LEE AND JHOEK
DOJ FOR CMERRIAM
AID/W FOR LAC/AA

E.O. 12958: N/A

TAGS: [KIPR](#) [ETRD](#) [ECON](#) [KJUS](#) [BR](#)

SUBJECT: FAVORABLE TRENDS IN FIGHTING IPR PIRACY IN SAO PAULO

REF: SAO PAULO 675

SENSITIVE BUT UNCLASSIFIED; PLEASE PROTECT ACCORDINGLY

Summary

¶1. (U) Econoff met recently with Marcio Vaz Guimaraes de Souza Netto, the head of the Sao Paulo State Interagency Council to Combat Piracy, to discuss recent activities of the organization and new developments in the fight against piracy. The Council has been reaching out to law enforcement in other states in an effort to consolidate forces. It has also undertaken initiatives to educate and sensitize the public to the problem. The divisions charged with confiscating pirated goods have seized approximately USD 18 million of merchandise as of September 2006, the result of nearly double the number of operations since 2002. The city of Sao Paulo significantly reinforced its own anti-piracy fight with the signing of a new law that will cancel a business license should an establishment or street vendor be found participating in the sale of counterfeit goods. Those involved in the sale of pirated goods and their customers are becoming more sophisticated, and the flood of contraband coming across the border with Paraguay remains a major concern. End Summary.

Background on the Council

¶2. (U) The Interagency Council to Combat Piracy of Sao Paulo State (reftel) was created (at Post's urging) in January 2006 to present a more unified and organized effort to combat piracy. According to

Souza, piracy today in Sao Paulo State is surpassing drug profits and has become a sophisticated industry, with vendors specializing in certain high end brands. Within the governmental structure, the Council is part of the State's Department of Investigations on Organized Crime. The Council is composed of officials from seven state offices: Executive Office; Department of Justice; Department of Labor; Department of Culture; Department of Finance; Department of Science, Technology and Economic Development; Department of Public Health; and, the State Attorney General's Office. Since January 2006, when the Council was officially organized and recognized by state law, it has coordinated its efforts with state law enforcement agencies and its counterpart on the federal level, the National Council to Combat Piracy (CNCP).

Council Coordinates with Other States

13. (U) Souza believes that it is now time for the Council to build upon its present momentum and work with other anti-piracy groups. In addition to the federal CNCP, there is an inter-institutional committee in Rio Grande do Sul State, a regional group associated with the federation of industries (FIRJAN) in Rio de Janeiro State, and a recently formed group in Minas Gerais state. After the governors of Brazil's southern states met in early June with U.S. Secretary of Commerce Gutierrez to discuss IPR issues, the Sao Paulo

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Council convened a meeting on June 28 with Attorneys General from the southern states of Sao Paulo, Rio Grande do Sul and Mato Grosso do Sul to discuss joint initiatives in combating piracy.

14. (U) Souza further explained that the Council now takes a three-pronged approach to the problem of piracy: education, law enforcement and prevention. In coordination with the Entertainment

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Software Association (ESA) and the Brazilian Software Association (ABES), the Council has organized a series of one-day anti-piracy training seminars for public-sector workers in 11 cities from October to December, with training beginning in January 2007 for customs agents in ports in the states of Rio, Pernambuco, Rio Grande do Sul, Parana, Sao Paulo, Amazonas, Ceara, and Para. Participants will be trained on the recognition of fraudulent merchandise and provide a complete review of existing laws and penalties. Working with other state offices, the Council is involved in community projects to educate the public and create a less accepting populace.

Examples are the Community Integration Centers (CICs) located within the neighborhoods and the Workers Posts (Postos de Atendimento ao Trabalhador - PAT), which are sponsored by the state Labor Department and approach the problem of piracy as it affects the local labor market.

Paraguay Effect on Piracy in Brazil

15. (U) Souza stated that although Sao Paulo does not border Paraguay, the piracy industry along the border with Paraguay has become a major problem for Sao Paulo State, with a large number of goods coming into Brazil via this route. For example, according to the Paraguayan Ministry of Industry and Commerce, 378 million blank videotapes will be imported this year into Paraguay, yet only 3 - 5 million will actually be used in Paraguay. This implies that the other 372 million will be used elsewhere, most probably for the illegal tape industry in Brazil. There is usually a link between piracy and organized crime, with drugs, arms and piracy co-existing in the Tri-border region. The Council realizes that this is a sensitive and very dangerous combination, requiring carefully planned operations for the seizure of goods. Souza also stated that the cost of these operations increases with the number of officers involved and the time to investigate a case, which impacts on the State's ability to carry out all investigations needed.

Recent Trends in Piracy

16. (U) Pirated goods have a more sophisticated clientele today, and

many dealers are specializing in certain brand names, such as Louis Vuitton. According to Brazilian law, in order to have piracy charges brought against an individual, the company must have a representative located here in Brazil who is willing to participate in the legal process. Unfortunately, two of the most popular pirated brands in Brazil, Polo Sport and Ralph Lauren, do not have representatives here. This results in seized merchandise being stockpiled for later destruction, with no criminal charges brought against the individuals involved. Compounding this issue are several brand name representatives who desire only that the pirated goods be seized from the point of sale and have no interest in prosecuting the illegal merchandisers. On the pharmaceutical side, Souza is seeing more incidence of fake medications in the Brazilian pirated market, which poses serious public safety issues since the medication is prepared without monitoring to ensure compliance with sanitary regulations.

¶7. (U) The investigative and law enforcement arms for combating piracy are organized under the Department of Investigations of Organized Crime (DEIC). Within the DEIC there is the Division of Investigations (DIG) which houses four offices with a total of 36 investigative teams working in the following areas: Material Property, Falsification, Fraud, and Electronic Property. As of

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September 2006, these teams were responsible for USD 18 million for the seizure of pirated goods in Sao Paulo State for this calendar year. In dollar value, the top seven pirated items are: purses (3.8 million), watches (2.8 million), clothing (2.5 million), tennis shoes (2 million), toys (1.3 million), blank DVDs (1.3 million), and musical CDs (1 million).

Recent State Legislation on Combating Piracy

¶8. (U) Assisting with the law enforcement process are two recent state laws (No.12.279 and 12.294) which allow for the cancellation of the license of any commercial establishment that acquires, stocks, or exports contraband or fake products. Another recent law (No. 11/929/05) allows for the cancellation of licenses of gas stations involved in the sale of illegal gasoline products. This new legislation has been responsible for the closing of 248 gas stations and 6 gasoline distributorships. Souza stated, however, that more legislative changes are needed. Under existing law, it takes approximately eight months for cases to wind through the legal process. In order for an individual to be charged, each individual item seized must be listed by the officer, and all items must be warehoused for the trial. Legislation has been introduced to allow the investigator to list confiscated property by weight, rather than individual itemization, thus eliminating this time consuming procedure. Under this proposed bill, items would not need to be warehoused, but could be destroyed, especially products that may post potential health concerns. Search warrants require the presence of a federal district attorney when police enter the property.

Recent Anti-Piracy Law Passed by the City of Sao Paulo

¶9. (U) The city of Sao Paulo has also recently passed new and harder-hitting legislation. Decree No. 47.801, signed by the mayor on October 29, permits law enforcement authorities to cancel licenses of both shops and street vendors found selling pirated, illegally imported, or counterfeit goods. This law was developed in response to the rising demands of the audio, video, fashion, toy, shoe, and perfume industries. According to the Association for the Defense of Intellectual Property (Adepi), the audiovisual sector in Brazil had losses of USD 198 million last year due to piracy. Previously, police would conduct raids and seize pirated goods that were found, but the business would continue to operate. It would quickly absorb its losses, restock, and continue to sell. This facilitated the creation of "contraband mafias," according to leading daily newspaper "O Estado de Sao Paulo." Galeria Page, a downtown shopping mall with many shops of pirated goods, has remained in business for over 40 years despite numerous seizures of goods. The new law gives authorities the power to cancel the

offender's license, thereby shutting down the business.

¶10. (U) According to Decree 47.801, those who have already had their licenses withheld under federal or state law and are charged under the municipal law will not be able to renew their licenses for 10 years, and this will apply to all partners in the business. The challenge for the city is in the numbers: 6,000 street vendors and 30,000 establishments in Sao Paulo, and only 600 inspectors to enforce this law. This is a daunting task considering that these 600 workers already have the responsibility of enforcing present laws. Many observers have expressed concern that this new law, instead of taking a bite out of illegal commerce, will probably

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increase corruption, as more of these public workers will find an opportunity to be paid off and allow these illegal businesses operating freedom.

Favorable Trends in IPR coordination and Legislation

¶11. (SBU) Comment: The Interagency Council to Combat Piracy in Sao Paulo State has made positive steps in the past year to confront the issue of piracy. The Council considers piracy to be a global issue affecting all countries. A recent national survey sponsored by Fecomercio in Rio de Janeiro reported that 42% of those surveyed had bought pirated goods this year, which in raw numbers would mean approximately 78 million Brazilians. Of those surveyed, 66% are aware of the negative consequences generated by illegal commerce, 70% associate it with organized crime, and 79% believe that these sales hurt formal commerce, in addition to manufacturers and artists. This survey highlights the extent of the problem, the urgent need to continue efforts to educate the public, and the necessity for stronger governmental and legal intervention. Recent state legislation has enhanced the government's ability to deter piracy activity, and future legislation is being introduced that would make searching, processing, and itemizing of seized goods easier. In addition, the city of Sao Paulo has now come forth with stronger legislation to combat piracy, adding much needed muscle to law enforcement efforts. While Souza stressed that interest in combating piracy remains strong and the Council is active, much remains to be done to educate a highly accepting public that is still unaware of or unconcerned about the real damage done by piracy to the economy and the labor market. We look forward to working with Governor-elect Jose Serra, who has been a strong advocate in fighting IPR piracy while Mayor of Sao Paulo, as well as with current Mayor Gilberto Kassab, in expanding our cooperation on IPR issues. End Comment.

¶12. (U) This cable was cleared by Embassy Brasilia.

McMullen